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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/707,181

11/25/2003

Milton Rodriguez

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04/29/2008

LAW OFFICE OF DELIO & PETERSON, LLC.

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EXAMINER

NGAMPA, BRIGET P

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

04/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/707,181	<b>Applicant(s)</b> RODRIGUEZ, MILTON	
	<b>Examiner</b> BRIGET P. NGAMPA	<b>Art Unit</b> 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 09 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 15-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**Detailed Action**

***Response to Amendment***

1. Examiner's acknowledge the cancellation of claims 12-14.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gosselin et al. (patent number 5,885,677 hereafter '677) in view of Torgersen et al. (4,303,701, hereafter '701), and further in view of Liu et al. (pub number US 2002/0114929 A1 hereafter '929).

With respect to claim 1, '677 teach a method of identifying security label by identifying pattern that diffuse into the substrate [col 1, line 48-49]:  
Forming an identification mark (security label) on a surface [col 1, lines 56-57]: An adhesive layer which substantially covers the major surface [col 2, line 3-5] contains an identifier medium (fluorescent dye) [col 2, line 4-5] is applied to the first major surface [col 1, lines 57-58]. '677 teach that the UV-fluorescent dye readily penetrates painted metal surface [col 5, lines 12-14].

'677 does not teach applying a solution of the fluorescent material to the surface to migrate into the at least one paint layer, and removing the excess amount of fluorescent material from the at least one paint layer with a solvent.

'701 teach applying a solution of the fluorescent material to the surface [col 1, lines 62-63] to migrate into the surface to be marked with the identification [col 1, line 66]; and removing the excess amount of fluorescent material from the at least one surface [col 1, lines 66-68] with a solvent [col 2, line 48]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the fluorescent material to the surface and removed the excess with a solvent with reasonable expectation of success because '701 teaches that it is the suitable method of applying and removing excess fluorescent material.

'677 in view of '701 does not teach that fluorescent emission is visible at an acute angle to the object surface without use of an ultraviolet light, while being substantially invisible at an angle normal to the object surface.

'929 teach that fluorescent ID markers may be visible directly (normal incidence viewing) [fig 1, 24] or at an acute angle to the object surface [Fig 1, 26 and fig 3] without use of an ultraviolet light, while being substantially invisible at an angle normal to the object surface [fig 1, 24 and fig 2]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used such selective transmission to increase security and verification of article because '929 teaches that such selective transmission increases security and verification of article.

With respect to claim 3, '677, '701 and '929 teach the limitations of claim 1. '701 further teach the object may be at ambient temperature when the fluorescent material is applied to it [col 3, lines 37-38].

With respect to claim 6, '677, '701 and '929 teach the limitations of claim 1. '677 further teach that numbers and letters (alphanumeric or VIN) within the UV-fluorescent [col 6, line 53-55]; [fig 3, 92] are applied to the adhesive layer. It is conventional to apply vehicles identification numbers (VIN) in both known and unrevealed location of various auto parts in order to add security and VIN are always a mix of letters and numbers; thus it would have been obvious to apply identification marks with a mix of letters and numbers on the parts because using numbers and letters to produce an identification mark is well known.

With respect to claim 17, '677 teach a method of identifying security label by identifying pattern that diffuse into the substrate [col 1, line 48-49]:

Forming an identification mark (security label) on a surface [col 1, lines 56-57]: An adhesive layer which substantially covers the major surface [col 2, line 3-5] contains an identifier medium (fluorescent dye) [col 2, line 4-5] is applied to the first major surface [col 1, lines 57-58]. '677 teach that the UV-fluorescent dye readily penetrates painted metal surface [col 5, lines 12-14].

'677 does not teach applying a solution of the fluorescent material to the surface to migrate into the at least one paint layer, and removing the excess amount of fluorescent material from the at least one paint layer with a solvent.

'701 teach applying a solution of the fluorescent material to the surface [col 1, lines 62-63] to migrate into the surface to be marked with the identification [col 1, line 66]; and removing the excess amount of fluorescent material from the at least one surface [col 1, line 66-68] with a solvent [col 2, line 48]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the fluorescent material to the surface and removed the excess with a solvent with reasonable expectation of success because '701 teaches that it is the suitable method of applying and removing excess fluorescent material.

'677 in view of '701 do not teach that fluorescent emission is visible. '929 teach that fluorescent ID markers may be visible, [Fig 1, 26 and fig 3]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used such selective transmission to increase security and verification of article because '929 teaches that such selective transmission increases security and verification of article.

2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gosselin (patent number 5,885,677 hereafter '677) in view of Torgersen et al. (4,303,701, hereafter '701) further in view of Liu et al. (pub number US 2002/0114929 A1 hereafter '929) and further in view of Cleary (patent number 5,811,152, hereafter '152).

'677, '701 and '929 teach the limitation of claim 1. They do not teach that the fluorescent material is a liquid, and the solvent is non-aqueous. '152 teach that the fluorescent material is soluble in a solvent system [col 2, lines 52-53], and the solvent is

a volatile solvent [col 4, line 40-41] to produce a unique formulation. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a liquid fluorescent material, non aqueous solvent with reasonable expectation of success, because '152 teaches that it is a suitable method to produce a unique formulation.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gosselin (patent number 5,885,677 hereafter '677) in view of Torgersen et al. (4,303,701, hereafter '701), further in view of Liu et al. (pub number US 2002/0114929 A1 hereafter '929) further in view of Howse et al. (patent number 5,759,613 hereafter '613).

'677, '701, and '929 teach the limitations of claim 1. '677 further teach that fluorescent dye can penetrate painted metal surface [col 5, lines 12-14]. They do not teach specifically that the metallic surface is that of a vehicle. '613 teach that the vehicle identification number (VIN) is provided on the engine or chassis of a vehicle [col 1, line 50-55]. Therefore it would have been obvious to one of ordinary skills in the art at the time the invention was made to have painted the metallic surface of a vehicle with reasonable expectation of success because '613 teaches that metal is a suitable material for strength and environmental conditions.

4. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gosselin (patent number 5,885,677 hereafter '677) in view of Torgersen et al.

(4,303,701, hereafter '701) further in view of and Liu et al. (pub number US 2002/0114929 A1 hereafter '929) and further in view of Van Duynhoven (U.S. patent number 6,358,563, B1, hereafter '563).

'677, '701 and '929 teach the limitations of claim 1. They do not teach that the fluorescent material is a liquid, and the unique discrete identification is applied to the paint layer by brush. '563 teach that luminescent paint can be applied by brush [col 2, lines 63-64] and stencil [col 3, line 8]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a brush or a stencil to apply luminescent paint because '563 teaches that it is a suitable method for luminescent paint application.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gosselin (patent number 5,885,677 hereafter '677) and Torgersen et al. (4,303,701, hereafter '701) for the reasons discussed in claim 1 and further in view of Van Duynhoven (U.S. patent number 6,358,563, B1, hereafter '563) for the same reasons given for claim 7.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gosselin (patent number 5,885,677 hereafter '677) in view of Torgersen et al. (4,303,701, hereafter '701) further in view of Liu et al. (publication number US 2002/0114929 A1 hereafter '929) and Van Duynhoven (U.S. patent number 6,358,563, B1, hereafter '563)



as applied to claim 8 and further in view of Sims (patent number 2,438,828 hereafter '828).

'677, '701, '929 and '563 teach the limitations of claim 1. They do not teach how to make the stencil. '828 teach the stencil being created as:

- a) providing a stencil sheet (stencil main body) [fig 1, 15] having an adhesive backing layer [23, 23a] attached to a release sheet [27] [col 2, lines 19-23],
- b) cutting the alphanumeric identification [13, 14] into the stencil sheet [fig 1, 15] without cutting through the release sheet [col 1, line 47- col 2, line 19] (mark with opening that mark portions of the surface),
- d) placing the stencil sheet [15] with cut alphanumeric identification and adhesive backing layer onto a second adhesive layer [24], [col 2, lines 23-28], and
- c) removing the stencil sheet [15] with cut alphanumeric identification and adhesive backing layer from the release sheet [27], [col 3, lines 10-12],
- e) removing the stencil sheet and adhesive backing layer without the cut alphanumeric identification from the second adhesive layer [24] creating cut openings [21,22] on the stencil sheet [col 3, lines 16-22] and leaving the cut alphanumeric identification on the second adhesive layer [fig 5]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the stencil as made by '828 because '828 teaches that it is a suitable process for achieving accurate and consistent lettering.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gosselin (patent number 5,885,677 hereafter '677) in view of Torgersen et al. (4,303,701, hereafter '701), further in view of Liu et al. (pub number US 2002/0114929 A1 hereafter '929) and further in view of Small et al. (4,927,663, hereafter '663).

'677, '701 and '929 teach the limitation of claim 1. They do not teach the fluorescent material comprises a non aqueous-based ultraviolet ink. '663 teach that in color printing, a non-aqueous ultra violet (UV) ink can be used [col 3, lines 37-40]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a non aqueous UV ink because '663 teaches that it is a suitable element for color printing.

8. Claims 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gosselin ('677), Torgersen et al. ('701) further in view of Liu et al. ('929) as applied to claim 1 and 17 above, and further in view of Marsek (5,104,711, hereafter '711).

With respect to claim 11, '677, '701, and '929 teach the limitations of claims 1 and 17. They do not teach that the paint is a urethane-based paint. '711 teach that urethane paint is used to paint a vehicle. [col 1, lines 21-22]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used urethane paint because '711 teach that it is a suitable paint for vehicles.

With respect to claim 18, '677, 701, and '929 teach the limitations of claim 17.

They do not teach the paint being urethane-based. '711 teach that urethane paint is applied to the painted vehicle [col 1, lines 21-22]. Therefore it would have been obvious to one of ordinary skills in the art at the time the invention was made to have used urethane paint to paint the vehicle because '711 teaches that it is a suitable paint for vehicles.

9. Claim 16 is rejected over Gosselin ('677), Torgersen et al. ('701) and Van Duynhoven ('563) as applied to claim 15 and further in view of Marsek ('711) for substantially the same reasons given for claim 11.

10. Claims 19 - 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gosselin (patent number 5,885,677 hereafter '677) in view of Torgersen et al.

'(4,303,701, hereafter '701), further in view of Liu et al. (pub number US 2002/0114929 A1 hereafter '929) and further in view of Jack (patent number 5,151,572 hereafter '572).

All the features of claim 19 have been treated above in claims 1 and 5, except recording the unique discrete identification and the unrevealed location on the vehicle surface in a searchable database for retrieval in the event that the vehicle needs to be identified. '572 teaches that the method comprises a computer system [fig 1, 32] including a barcode reader used to read and input various kind of data such as VIN or serial number from automobile components parts., and bulk storage of data [col 3, lines

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28-49]. It is well known in the art of computer that computer give ability to input data for storage and later retrieve. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have used a computer to not only input VIN but also retrieve data later for whatever reason.

With respect to claim 20, '677 indicate the fluorescent material may be applied directly to the unpainted metal surface [col 5, lines 12-14]. Even though it states that such dyes do not *readily* penetrate the unpainted metal surface, some degree of penetration must occur.

With respect to claim 21, '677 further teach that the UV-fluorescent dye readily penetrates painted metal surface [col 5, lines 12-14].

11. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gosselin ('677) in view of Torgersen ('701), Liu ('929) and Jack ('572) as applied to claim 19 above further in view of Marsek ('711) for the same reasons given for claim 11 above.

12. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable Over Gosselin (patent number 5,885,677 hereafter '677) in view of Torgersen et al. (4,303,701, hereafter '701), further in view of Liu et al. (pub number US 2002/0114929 A1 hereafter '929) and further in view of Jack (patent number 5,151,572 hereafter '572)

and further in view of Rohrbaugh et al. (publication number 2002/0176982 A1, hereafter '982).

'677, '701, '929 and '572 teach all the limitation of claim 19. They do not teach the vehicle surface comprises fiberglass, and the unique discrete identification formed by the marking fluid is embedded in the fiberglass. '027 teach that coating can be applied to hard surfaces such as fiberglass and fiberglass includes car bodies [0028]. Therefore it would have been obvious to one of ordinary skills in the art at the time of the invention was made to have applied coating on fiberglass which is part of surface of a vehicle because '982 teaches that coating can be applied to fiberglass of car parts. The coating will inherently penetrate to some degree between fibers of the fiberglass because fiberglass is fibrous.

#### ***Allowable Subject Matter***

2. Claim 2, is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art does not teach a plurality of layers of paint on the surface and wherein the unique discrete identification is applied to an upper paint layer and the fluorescent material migrates through the upper paint layer and into the at least one lower paint layer.

#### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

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unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-11, 15-18 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3-14, 24 of copending Application No. 10707183. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-11, 15-18 are rejected in view of '183, the markings of '183 states that the material is visible at an acute angle and not at a normal angle to the surface. It would have been obvious to one of ordinary skills in the art at the time of the invention to one seeking to identify the object, would have chosen to view the object at the acute angle from which the material was visible.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 19-22 are rejected over '183 as describe in the rejection of claim 1 above and further in view of Jack ('572) as described in claim 19 and 22 above.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 23 is rejected over '183 in view of Jack ('572) as describe in claim 19 above and further in view of Rohrbaugh ('892) as describe in claim 23 above.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Response to Arguments***

5. Applicant's arguments filed 1/9/2008 have been fully considered but they are not persuasive in light of above rejection.

6. With respect to claims 1, 15 and 17, applicant remarked that Gosselin'677 does not disclose or suggest either removing the excess of fluorescent material from the at least one paint layer, or directly viewing the paint layer at an acute angle without use of an ultraviolet light to view the identification. Further, Liu '929 does not disclose any of applicant's application method. Nor does it disclose or suggest directly viewing the paint layer at an acute angle without use of an ultraviolet light to view the identification. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

7. Applicant argues that Liu does not disclose or suggest directly viewing the identification in the paint layer. Applicant's arguments is not convincing because Liu on

[figure 1, 24] shows a directly viewing (normal incidence viewing) and angle viewing to the object surface.

8. Applicant argues that Van Duynhoven '563 does not make up for the deficiencies of the primary cited art. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

9. With respect to remarks of claims 11, 16 and 22: applicant remarks that Gosselin '677, Torgersen '701, Liu '929 and Van Duynhoven '563 references do not disclose or suggest the use of their fluorescent markings with such a urethane-based paint system. Also that Marsek '711 does not disclose or suggest that a liquid UV fluorescent material may be migrated into the urethane based paint and permit the identification to be fluorescent at an acute angle and invisible at a normal angle. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

10. With respect to remarks of claims 19-23, applicant remarks that references do not disclose or suggest the feature of direct viewing as in claims 1, 15, and 17 above.



Examiner points to rejection of claim 1, 15 and 17 above and the answer given to remarks of claims 1, 15 and 17 above.

Further the applicant remarks that Jack '572 does not disclose or suggest that both the unique discrete identification as well as unrevealed location on the vehicle surface are recorded in a searchable database. '572 teach that the etching of vehicle identification number (VIN) takes place on the window [col 5, lines 63-67] and the system is also used to identify each set of stencils with a barcode and /or alphanumeric information to enable filing and processing in an orderly fashion [col 3, lines 60-64]. It would have been obvious to one of ordinary skill in the art at the time of the invention to have store the unrevealed location in a database in order to file and process in an orderly fashion because '752 teach a system which will be used for identify with barcode will have an orderly filing and processing. To clarify, the window location is unrevealed to the public and thieves to protect the identity of the vehicle from the thieves and since the computer system will be store within manufacturing facilities it is considered unrevealed to the public, only concerned personnel will have access to the files. In addition it will be obvious to record the location where the VIN was stored to make it easier to retrieve it and match it when the need will arise.

The above rejection is therefore maintained.

The double patenting rejection made in the non-final rejection dated 10/11/2007 is maintained because the amendment although do not have the same scope, however, the subject matter is still identical.

### ***Conclusion***

**11. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIGET P. NGAMPA whose telephone number is (571)270-1866. The examiner can normally be reached on M-F, 830-4:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on 571-272-1418. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Cleveland/  
Supervisory Patent Examiner, Art Unit 1792